

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARVIN HARRIS,

Plaintiff,

v.

D. BRUNK, et al.,

Defendants.

Case No. 1:22-cv-00405 JLT HBK (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PLAINTIFF'S APPLICATION TO PROCEED
IN FORMA PAUPERIS, AND DIRECTING
PAYMENT OF THE FILING FEE

(Docs. 7, 9)

Marvin Harris seeks to hold Defendants D. Brunk, Hampson, Figueroa, and John Doe liable for violations of his civil rights pursuant to 42 U.S.C. § 1983. (Doc. 1.) On May 6, 2022, Plaintiff filed a motion to proceed *in forma pauperis* in the action. (Doc. 7.)

The assigned magistrate judge found Plaintiff had at least three cases dismissed that qualified as a strike under Ninth Circuit authority before filing this action on April 8, 2022. (Doc. 9 at 5-6.) Therefore, the magistrate judge found Plaintiff is subject to the three strikes bar under 28 U.S.C. § 1915(g). (*Id.*) In addition, the magistrate judge found the complaint did not contain any plausible allegations that would satisfy the “imminent danger of serious physical injury” exception to Section 1915(g), even when liberally construed. (*Id.* at 6.) Therefore, the magistrate judge recommended Plaintiff’s motion to proceed IFP be denied. (*Id.*)

The Court served the Findings and Recommendations on Plaintiff. It also notified Plaintiff that any objections to the findings and recommendations were due within fourteen days. (Doc. 9

1 at 6-7.) The Court also advised Plaintiff “that failure to file objections within the specified time
2 may result in the waiver of rights on appeal.” (*Id.* at 7, citing *Wilkerson v. Wheeler*, 772 F.3d
3 834, 838-39 (9th Cir. 2014); *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).) Plaintiff
4 has not filed objections, and the time to do so has expired.

5 Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court conducted a *de novo* review of this case.
6 Having carefully reviewed the entire file, the Court concludes the Findings and
7 Recommendations are supported by the record and by proper analysis. Accordingly, the Court

8 **ORDERS:**

- 9 1. The Findings and Recommendations issued on August 19, 2022 (Doc. 9) are
10 **ADOPTED** in full.
- 11 2. Plaintiff’s motion to proceed *in forma pauperis* (Doc. 7) is **DENIED**.
- 12 3. Within 30 days from the date of service of this order, Plaintiff **SHALL** pay in full
13 the \$402.00 filing fee if he wishes to proceed with his action.
- 14 4. Plaintiff is advised that failure to pay the required filing fee as ordered will result
15 in the dismissal of this action without prejudice.

16 IT IS SO ORDERED.

17 Dated: October 7, 2022


UNITED STATES DISTRICT JUDGE

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